



## Arizona Medical Board

9545 East Doubletree Ranch Road • Scottsdale, Arizona 85258

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### **FINAL MINUTES FOR REGULAR SESSION MEETING** **Held at 9:00 a.m. on December 1, 2004, and 8:00 a.m. on December 2, 2004,** **9535 E. Doubletree Ranch Road - Scottsdale, Arizona**

#### ***Board Members***

Edward J. Schwager, M.D., Chair  
Sharon B. Megdal, Ph.D., Vice Chair  
Robert P. Goldfarb, M.D., Secretary  
Patrick N. Connell, M.D.  
Ingrid E. Haas, M.D.  
Tim B. Hunter, M.D.  
Becky Jordan  
Ram R. Krishna, M.D.  
Douglas D. Lee, M.D.  
William R. Martin III, M.D.  
Dona Pardo, Ph.D., R.N.  
Chris Wertheim

#### ***Board Counsel***

Christine Cassetta, Assistant Attorney General

#### ***Staff***

Barbara Kane, Assistant Director  
Beatriz Garcia Stamps, M.D., M.B.A., Board Medical Director  
Gary Oglesby, Chief Information Officer  
Tricia Steffey, Board Coordinator  
Susan Ahn, Legal Coordinator

### **WEDNESDAY, December 1, 2004**

#### **CALL TO ORDER**

Edward J. Schwager, M.D., Chair, called the meeting to order at 9:01 a.m.

#### **ROLL CALL**

The following Board Members were present: Edward J. Schwager, M.D., Sharon B. Megdal, Ph.D., Robert P. Goldfarb, M.D., Patrick N. Connell, M.D., Ingrid E. Haas, M.D., Tim B. Hunter, M.D., Becky Jordan, Ram R. Krishna, M.D., Douglas D. Lee, M.D., William R. Martin, III, M.D., Dona Pardo, Ph.D., R.N. and Chris Wertheim.

#### **CALL TO THE PUBLIC**

Statements issued during the call to the public appear beneath the case referenced.

#### **NON-TIME SPECIFIC ITEMS**

##### **Appointment of Acting Executive Director and Delegation of Executive Director Duties Contained in Administrative Rule**

Edward J. Schwager, M.D., announced that Timothy C. Miller has accepted the position of Executive Director effective December 13, 2004. Dr. Schwager stated the former Executive Director's last day was Monday, November 30, 2004; therefore there is about a week and a half of time in which an Acting Executive Director may be appointed. Dr. Schwager asked Barbara Kane, Assistant Director, to clarify for the Board Members what functions she is able to perform under delegated authority. Ms. Kane stated that she is able to issue licenses and registrations; prepare minutes, records and

## NON-TIME SPECIFIC ITEMS (Continued)

reports; initiate investigations; issue subpoenas; provide assistance to the Attorney General in preparing, signing and executing disciplinary orders, rehabilitation orders, notices and hearings as directed by the Board and on behalf of the Board, as well as stipulated agreements with licensees under the jurisdiction of the Arizona Medical Board and Arizona Regulatory Board of Physician Assistants for treatment, rehabilitation, monitoring of chemicals, substance abuse or misuse. Christine Cassetta, Board Counsel, stated that Ms. Kane is not able to perform duties that were specifically delegated pursuant to statute by the Board to the Executive Director. She clarified for Dr. Schwager that these duties include interim orders, referrals to formal interview, interim consent agreements, referrals to formal hearing, granting requests for inactive status and license cancellations, complaint dismissals, license denials and non-disciplinary consent agreements.

Dr. Schwager stated that in 2002, the Board voted to not appoint an Acting Executive Director, but delegate the Executive Director duties to the Chief Medical Consultant.

**MOTION: Ram R. Krishna, M.D., moved to not appoint an Acting Executive Director.**

**SECONDED: Robert P. Goldfarb, M.D.**

**VOTE: 12-yay, 0-nay, 0-abstain/recuse, 0-absent**

**MOTION PASSED.**

Dr. Schwager stated that the Arizona Department of Administration (ADOA) and the Governor's Office were prepared to provide an Acting Executive Director at the Board's request. On behalf of the Board, he thanked ADOA and the Governor's Office for their assistance.

**MOTION: Ram R. Krishna, M.D., moved to delegate Executive Director duties under Arizona Administrative Code to Beatriz Garcia Stamps, M.D., M.B.A., Medical Director, with the exception of R4-16-405 Mediated Case and R4-16-406 Referral to Formal Hearing.**

**SECONDED: Patrick N. Connell, M.D.**

**VOTE: 12-yay, 0-nay, 0-abstain/recuse, 0-absent**

**MOTION PASSED.**

## Executive Director's Report

### Agency Reports

Barbara Kane, Assistant Director, informed the Board that she attended a Joint Legislative Audit Committee Meeting with Stuart Goodman, the Board's Lobbyist. She stated that the Audit Committee was satisfied with the actions that the agency has taken. She also stated that they went on record complimenting the agency on the seriousness with which the audit was handled and that they were pleased with the progress. Ms. Kane also stated that the Audit Committee would conduct another review in six months.

Edward J. Schwager, M.D., stated that at the last meeting he asked for more data in the agency reports regarding open cases in order to recognize and track trends. He also stated that there has been discussion among Board Members in the past regarding the definition of open cases and length of cases. Dr. Schwager suggested that a Committee be developed to address these issues with Board staff to clarify for staff what is expected. Sharon B. Megdal, Ph.D., Tim B. Hunter, M.D., and Chris Wertheim agreed to participate in the Committee. Dr. Megdal suggested that Board staff research these topics beforehand and present recommendations to the Committee. Barbara Kane, Assistant Director, stated that she has met with Mr. Miller regarding this and other critical issues that need to be addressed on a priority basis.

### Litigation Reports

Dean Brekke, Assistant Attorney General, clarified for Sharon B. Megdal, Ph.D., that the number of Formal Hearing cases has been reduced dramatically and most outstanding cases are pending consent agreements. He also stated that, during the calendar year, fourteen cases have been received and approximately thirty-six cases have been closed.

## FORMAL INTERVIEWS

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	BOARD RESOLUTION
40.	MD-03-1349A	L.L. JOHN GIBNEY, M.D.	9401	Advisory Letter for performing an inadequate history and physical of patient. A.R.S. § 32-1401(3)(b) - The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action.

William R. Martin, III, M.D., recused himself from this matter.

John Gibney, M.D., appeared before the Board with his attorney, Vincent J. Montell, Esq.

## **FORMAL INTERVIEWS (Continued) - JOHN GIBNEY, M.D.**

William Kennell, M.D., Board Medical Consultant, reviewed this case with the Board. The allegation is that Dr. Gibney negligently performed lower lid blepharoplasty. Dr. Kennell stated that the alleged deviations from the standard of care are that the initial evaluation was not adequate and that the selection of the procedure was in error. The actual harm was that the patient underwent three unsuccessful surgeries and two years of social embarrassment because of the appearance of her eyes. Dr. Kennell stated that an Outside Medical Consultant reviewed this case. The consultant reported that the amount of skin removed was in error based on an inadequate initial evaluation. The consultant was also critical that after each failed procedure Dr. Gibney failed to research the literature and reassess the situation.

Dr. Gibney made a statement to the Board. He stated that he has been in practice since 1977 and has performed several hundred blepharoplasties and this was his first case with complication. He stated that he obtained appropriate consent from this patient and clearly noted that he discussed all risks and complications with the patient. The American Society of Plastic Surgery distributes the consent form that he obtained. An adequate evaluation of this patient was performed based on the Textbook of Plastic, Maxillofacial and Reconstructive Surgery. Dr. Gibney reviewed the details of this case and the procedure he performed.

Douglas D. Lee, M.D., presenting Board Member, began questioning Dr. Gibney. Dr. Gibney clarified for Dr. Lee that he hand writes all of his notes. Dr. Lee questioned Dr. Gibney regarding the patient's complaints about constant tearing. Dr. Gibney stated that this patient's symptoms seemed to be caused by sinusitis or allergic responses. Dr. Gibney explained the different treatment options that are available. He stated that he chose this procedure because it is a simple technique for the patient's comfort and convenience and has been successful for him in the past. He explained that he chose this technique for the second procedure because he had had partial success with it the first time. He stated that he should have waited twelve months before performing the second procedure to allow time for scarring to occur, however he performed the surgery earlier upon request of the patient.

The Board Members began questioning Dr. Gibney. In response to a question posed by Robert P. Goldfarb, M.D., Dr. Gibney stated that he is board certified by the American Board of Plastic Surgery and that he performs approximately twelve to fifteen blepharoplasties per year. Dr. Gibney stated that he disagrees with the allegation that he used poor judgment in selecting this procedure for this patient because the patient showed 75% improvement after the first procedure. Dr. Gibney clarified for Dr. Hunter how he has changed his practice and office note procedures. Dr. Gibney responded that he now includes all findings in his office notes, not just the presence of abnormal findings. He also stated that he now uses digital technology for photographs. Dr. Gibney summarized his continuing medical education (CME) since his care of this patient.

Vincent J. Montell made a statement to the Board on behalf of Dr. Gibney. He stated that the physical examination of this patient was very comprehensive, the informed consent was adequate and the surgeries were performed conservatively and within the standard of care. He stated that Dr. Gibney met the standard of care in all respects and asked that the Board dismiss this case.

Dr. Lee stated that although the care of this patient did fall within the standard of care, he is concerned with the lack of detail in the patient's history and physical. He stated that a detailed dictation would be most appropriate.

**MOTION: Douglas D. Lee, M.D., moved to issue an Advisory Letter for performing an inadequate pre-operative history and physical. A.R.S. § 32-1401(3)(b) - The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action.**

**SECONDED: Ram R. Krishna, M.D.**

Robert P. Goldfarb, M.D., stated that he would agree with an advisory letter, but for a different reason than stated in the motion. He stated that the physician lacked the technical knowledge required for the patient to obtain a better result from the revision surgery that he performed. Dr. Schwager, Dr. Megdal and Chris Wertheim also spoke against the motion.

**ROLL CALL VOTE was taken and the following Board Members voted in favor of the motion: Patrick N. Connell, M.D., Tim B. Hunter, M.D., Becky Jordan, Ingrid E. Haas, M.D., Ram R. Krishna, M.D., Douglas D. Lee, M.D. The following Board Members voted against the motion: Robert P. Goldfarb, M.D., Sharon B. Megdal, Ph.D., Dona Pardo, Ph.D., R.N., Edward J. Schwager, M.D. and Chris Wertheim. The following Board Member was recused from the motion: William R. Martin, III, M.D.**

**VOTE: 6-yay, 5-nay, 1-abstain/recuse, 0-absent**

**MOTION PASSED.**

## FORMAL INTERVIEWS (Continued)

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
39.	MD-04-0018A	AMB	DAVID D. PARRISH, M.D.	26896	Reschedule Formal Interview for February Board Meeting.

Edward J. Schwager, M.D., announced that Board staff had been notified by Steve Myers, counsel for David D. Parrish, M.D., that Dr. Parrish is very ill and unable to attend the formal interview.

**MOTION: Ram R. Krishna, M.D., moved to grant a continuance until the February Board Meeting.**

**SECONDED: Tim B. Hunter, M.D.**

**VOTE: 12-yay, 0-nay, 0-abstain/recuse, 0-absent**

**MOTION PASSED.**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
41.	MD-04-0076A	AMB	GARY L. HENDERSON, M.D.	5029	Dismissed.

Robert P. Goldfarb, M.D. and Edward J. Schwager, M.D., recused themselves from this matter. William R. Martin, III, M.D., stated that he knows Dr. Henderson, but it will not affect his ability to adjudicate this case.

Gary L. Henderson, M.D., appeared before the Board with his attorney, Tom Slutes, Esq.

William Kennell, M.D., Board Medical Consultant, reviewed this case with the Board. The allegation is that Dr. Henderson negligently performed hernia surgery. The deviation from the standard of care is that a tissue approximation procedure was carried out and buttressed with prolene mesh leading to early breakdown and secondary complications. Dr. Kennell stated that he is focusing his criticism on the selection of procedure. The patient experienced breakdown of the hernia approximately 72 hours later resulting in bowel perforation and sepsis.

Douglas D. Lee, M.D., presenting Board Member, began questioning Dr. Henderson. Dr. Henderson explained for Dr. Lee the typical approaches used to surgically repair a hernia. He stated that the size of the hernia and the co-morbidities of the patient are factors when considering the type of procedure used. Dr. Henderson reviewed the details of this case with Dr. Lee.

The Board Members began questioning Dr. Henderson. Dr. Hunter asked Dr. Henderson how he would treat this patient differently today. Dr. Henderson responded that the standard of care has changed since he treated this patient in 1998. He also stated that better mesh product is available today than what was available then. Dr. Henderson stated that this procedure was within the standard of care in 1998 for a patient with this many co-morbidities. Dr. Kennell stated for Dr. Lee that the standard of care would have required an extensive discussion with the patient regarding the use of mesh. Dr. Henderson stated that based on the literature, this was an acceptable technique and was within the standard of care.

**MOTION: Ram R. Krishna, M.D., moved to dismiss this case.**

**SECONDED: Patrick N. Connell, M.D.**

Dr. Krishna stated that Dr. Henderson used his judgment in not using the prosthetic mesh. Dr. Hunter spoke in support of the motion stating that the complication is not atypical for this type of surgery. Dr. Lee spoke against the motion stating that Dr. Henderson was substandard in making the decision.

**ROLL CALL VOTE was taken and the following Board Members voted in favor of the motion: Patrick N. Connell, M.D., Tim B. Hunter, M.D., Becky Jordan, Ram R. Krishna, M.D., Sharon B. Megdal, Ph.D., William R. Martin, III, M.D., Ingrid E. Haas, M.D., and Chris Wertheim. The following Board Members voted against the motion: Douglas D. Lee, M.D. and Dona Pardo, Ph.D., R.N. The following members were recused from the motion: Robert P. Goldfarb, M.D. and Edward J. Schwager, M.D.**

**VOTE: 8-yay, 2-nay, 2-abstain/recuse, 0-absent**

**MOTION PASSED.**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
42.	MD-04-0058A	AMB	JEFFREY LIVOVICH, M.D.	29563	Vacate previous practice restriction. Probation for 5 years with MAP terms, a relapse will result in summary suspension and referral to formal hearing for revocation, and the physician will advise the Board of any change in his practice.

Jeffery Livovich, M.D., appeared before the Board with his attorney, Michael Guinan, Esq.

## **FORMAL INTERVIEWS (Continued) - JEFFREY LIVOVICH, M.D.**

Roderic Huber, M.D., Board Medical Consultant, reviewed this case with the Board. Dr. Huber stated that in January 2004, the Board was notified that Dr. Livovich had been released from a four-month inpatient drug recovery program in Louisiana. Dr. Livovich signed an Interim Consent Agreement on January 15, 2004 limiting his practice to administrative medicine only. Dr. Sucher, Monitored Aftercare Program (MAP) Consultant assessed Dr. Livovich and recommends that the practice restriction is lifted and Dr. Livovich be placed on 5-year probation with MAP terms.

Dr. Livovich made a statement to the Board. He stated that he is highly motivated to be in recovery and to participate in the MAP Program. He stated that he voluntarily contacted Dr. Sucher and entered a treatment program. He also stated that restrictions on Dr. Livovich's license are inappropriate because he is strongly committed to sobriety. Dr. Livovich is a Pain Management Specialist and gave a brief overview of this background and experience.

Patrick N. Connell, M.D., presenting Board Member, began questioning Dr. Livovich. Dr. Livovich clarified for Dr. Connell that he underwent treatment for chemical dependency in 1994 and remained sober for six years. Dr. Livovich stated that he has not performed hands-on patient care since 1994 and gave an overview of his work situation. He stated that although he feels it would be safe for him to return to anesthesia practice, he has no intention to do so.

Dr. Sucher clarified that Dr. Livovich has been a full and active participant of his treatment program. Dr. Sucher stated that Dr. Livovich is fully committed to recovery and feels that practice restriction is not necessary. Dr. Connell asked Dr. Sucher to clarify his experience with the Palmetto Addiction Recovery Center that Dr. Livovich attended in Louisiana. Dr. Sucher stated that he has met with the Director of Palmetto and the program is a traditional program, much like those that the Board is used to working with.

**MOTION: Sharon B. Megdal, Ph.D., moved to go into Executive Session at 11:28 p.m.**

**SECONDED: Ram R. Krishna, M.D.**

**VOTE: 12-yay, 0-nay, 0-abstain/recuse, 0-absent**

**MOTION PASSED.**

The Board returned to Open Session at 11:40 a.m.

Wendy Nicholson, Senior Compliance Officer, clarified for Robert P. Goldfarb, M.D., that the Interim Order is a practice restriction to prohibit practice of clinical anesthesia and direct patient care and also prohibits the physician from prescribing any form of treatment, including prescription medications. Dr. Sucher clarified for Dr. Krishna that while he does not believe a practice restriction is necessary, he does recommend that Dr. Livovich participate in the MAP Program.

**MOTION: Patrick N. Connell, M.D., moved to vacate the previous practice restriction and place Dr. Livovich on five year probation with MAP terms. A relapse will result in summary suspension and referral to formal hearing for revocation, and the physician will advise the Board of any changes in his practice.**

**SECONDED: Tim B. Hunter, M.D.**

Sharon B. Megdal, Ph.D., stated that the role of the Board is to balance the protection of the public and the interest of the medical community. Patrick N. Connell, M.D., agreed and stated that there has not been any evidence that Dr. Livovich has practiced anesthesia or pain management incompetently or harmed a patient.

**ROLL CALL VOTE was taken and the following Board Members voted in favor of the motion: Patrick N. Connell, M.D., Robert P. Goldfarb, M.D., Ingrid E. Haas, M.D., Tim B. Hunter, M.D., Becky Jordan, Douglas D. Lee, M.D., William R. Martin, III, M.D., Sharon B. Megdal, Ph.D., Dona Pardo, Ph.D., R.N., Edward J. Schwager, M.D., and Chris Wertheim. The following Board Member was recused from the motion: Ram R. Krishna, M.D.**

**VOTE: 11-yay, 0-nay, 1-abstain/recuse, 0-absent**

**MOTION PASSED.**

## **NON-TIME SPECIFIC ITEMS**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	BOARD RESOLUTION
1.	MD-04-0598A	G.M. SCOTT A. KRASNER, M.D.	16269	Uphold the Executive Director's Dismissal.
2.	MD-03-1145A	D.T. SANTIAGO L. LARIZABAL, M.D.	14445	Uphold the Executive Director's Dismissal.
3.	MD-04-0497A	AMB ALISON J. SMITH, M.D.	19195	Uphold the Executive Director's Dismissal.
4.	MD-03-0808A	C.M. BRONISLAVA SHAFRAN, M.D.	19000	Uphold the Executive Director's Dismissal.
5.	MD-04-0298A	W.B. M. DAVID BEN-ASHER, M.D.	3724	Uphold the Executive Director's Dismissal.

Edward J. Schwager, M.D. and Robert P. Goldfarb, M.D., recused themselves from this matter.

## NON-TIME SPECIFIC ITEMS (Continued)

W.B. made a statement at the call to the public stating that he was disappointed in the care provided to his mother by Dr. Ben-Asher. He stated that the physician mistreated her and ignored her needs. He also stated that Dr. Ben-Asher only submitted a portion of the medical records to the Board staff and he feels this was unethical.

6.	MD-04-0211A	S.F.	RAMANJIT S. DHALIWAL, M.D.	29247	Uphold the Executive Director's Dismissal.
7.	MD-04-0086A	O.N.	STUART R. SNIDER, M.D.	13137	Uphold the Executive Director's Dismissal.
8.	MD-04-0347A	R.J.	KAREN B. BARCKLAY, M.D.	29446	Uphold the Executive Director's Dismissal.
9.	MD-04-0101A	J.W.	OLUDARE ONISILE, M.D.	23710	Uphold the Executive Director's Dismissal.

J.W. made a statement at the call to the public. J.W. stated that he was denied treatment because he had not paid his bills. He stated that he filed this complaint because he does not think that it is right for a physician's office to treat him the way that he was treated.

10.	MD-03-1045B MD-03-1045C	J.D.	GREGORY D. PENNOCK, M.D. PETER H. SPOONER, M.D.	18063 21206	Uphold the Executive Director's Dismissal.
11.	MD-04-0098A	J.Z.	JOHN M. LEWIS, M.D.	7937	Uphold the Executive Director's Dismissal.
12.	MD-04-0569A MD-04-0569B	R.B.	KEVIN S. LADIN, M.D. MARC L. I, M.D.	20895 9792	Uphold the Executive Director's Dismissal.

R.B. made a statement at the call to the public. R.B. stated that he disagrees with the Independent Medical Examinations (IME's) performed by Drs. Ladin and Lee and asked the Board Members to review the facts and statements provided by the previous physicians that performed IME's.

13.	MD-04-0032A	S.C.	MANDEEP POWAR, M.D.	24843	Uphold the Executive Director's Dismissal.
14.	MD-03-0980A	E.S.	JEFFREY L. SCHWIMMER, M.D.	7119	Uphold the Executive Director's Dismissal.
15.	MD-04-0152A	A.W.	JOHN L. JENSEN, M.D.	13293	Uphold the Executive Director's Dismissal.

P.W. made a statement at the call to the public, on behalf of the patient, A.W. He stated that Dr. Jensen would not listen to A.W. and told her that her chronic fatigue syndrome was not real and that she should see a psychiatrist. He stated that although his wife was diagnosed with mitrovalve prolapse, Dr. Jensen ignored her complaints and test results. He stated that Dr. Jensen finally agreed to give A.W. a referral to a heart specialist, but only on the condition that she would stop seeing all of her other doctors. When A.W. asked to get a second opinion, she was banned from Dr. Jensen's office.

17.	MD-04-0269A	J.R.	MAGDA S. WILLIAMS, M.D.	26765	Uphold the Executive Director's Dismissal.
18.	MD-04-0421A	R.H.	EUGENE R. ALMER, M.D.	4476	Uphold the Executive Director's Dismissal.
19.	MD-04-0398A	D.A.	ATUL B. PATEL, M.D.	22892	Uphold the Executive Director's Dismissal.
20.	MD-04-0529A	R.S.	JAYA H. MADDUR, M.D.	14396	Uphold the Executive Director's Dismissal.

**MOTION: Patrick N. Connell, M.D. moved to uphold the Executive Director's dismissal for case numbers 1 through 20, except for case number 16, which was discussed individually.**

**SECONDED: Douglas D. Lee, M.D.**

**VOTE: 11-yay, 0-nay, 0-abstain/recuse, 1-absent**

**MOTION PASSED.**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
16.	MD-04-0061A	L.R.	BASIL E. SMITH, M.D.	23234	Continuance until February Board Meeting.

L.R. made a statement at the call to the public. She stated that the dismissal letter that she received from the Board states there is no evidence that the patient's leg is shorter than the other. She stated that the patient's left leg is an inch and three quarters shorter than the right leg and provided the Board a recent operative report dated November 10, 2004. She stated that the patient was in tremendous pain and tried to contact Dr. Smith several times during the month of August with complaints. The patient was later hospitalized with a blood clot going to the right lung. L.R. stated that if Dr. Smith had followed up on their complaints, this would not have happened.

Edward J. Schwager, M.D., asked staff to point out what documentation in the medical records supports the Medical Consultant's statement that the patient never called the physician's office or brought up any concerns. Board staff was unable to provide the requested material during the course of the meeting.

**MOTION: Robert P. Goldfarb, M.D., moved for continuance until February.**

**SECONDED: Douglas D. Lee, M.D.**

**VOTE: 12-yay, 0-nay, 0-abstain/recuse, 0-absent**

**MOTION PASSED.**

## NON-TIME SPECIFIC ITEMS (Continued)

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
21.	MD-04-0582A	AMB	HARJEET P. KOHLI, M.D.	23144	Dismissed.

Sharon B. Megdal, Ph.D., clarified with Christine Cassetta, Board Counsel, that this case came to the Board as a result of a medical malpractice judgment, therefore the Executive Director does not have the authority to dismiss this case. Dr. Megdal asked that Malpractice Dismissal Forms for these cases reflect that.

**MOTION: Tim B. Hunter, M.D., moved to dismiss this case.**

**SECONDED: Patrick N. Connell, M.D.**

**VOTE: 11-yay, 0-nay, 0-abstain/recuse, 1-absent**

**MOTION PASSED.**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
22.	MD-04-0013A	AMB	CALVIN A SCHULER, M.D.	11229	Continue Investigation and Invite Dr. Schuler for Formal Interview.

Patrick N. Connell, M.D., recused himself from this matter.

Wendy Nicholson, Senior Compliance Officer, clarified for Robert P. Goldfarb, M.D., that the Staff Investigational Review Committee (SIRC) reviewed this case and determined that there were no statutory violations. Tim B. Hunter, M.D., stated that this physician has demonstrated very disruptive behavior that the Board has not tolerated in the past.

**MOTION: Tim B. Hunter, M.D., moved to invite Dr. Schuler for formal interview.**

**SECONDED: Robert P. Goldfarb, M.D.**

Dean Brekke, Assistant Attorney General, stated that he was the legal consultant who reviewed this case after the psychiatric evaluation was obtained. He stated that the psychiatrist did not find any mental illness and stated that Dr. Schuler could continue to practice medicine safely. Mr. Brekke based his recommendation on this evaluation.

Sharon B. Megdal, Ph.D., stated that when a physician becomes so disruptive that their privileges are revoked, there is the potential to harm a patient. Dr. Megdal also stated that there should be something under the existing statutes to deal with physicians with extremely disruptive behavior.

Tim B. Hunter, M.D., reviewed the evaluation and stated that he would recommend that Board staff continue the investigation. Dr. Goldfarb agreed and stated that an updated evaluation is needed and a closer review should be conducted of any applicable statutes that may have been violated.

**VOTE: 11-yay, 0-nay, 0-abstain/recuse, 1-absent**

**MOTION PASSED.**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
23.	MD-04-1244A	M.K.	UNKNOWN	N/A	Uphold Executive Director's Administrative Closure.

**MOTION: Ram R. Krishna, M.D., moved to uphold the Executive Director's Administrative Closure.**

**SECONDED: Patrick N. Connell, M.D.**

**VOTE: 11-yay, 0-nay, 0-abstain/recuse, 1-absent**

**MOTION PASSED.**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
24.	MD-04-1181A	D.D.	UNKNOWN	N/A	Uphold Executive Director's Administrative Closure.

**MOTION: Ram R. Krishna, M.D., moved to uphold the Executive Director's Administrative Closure.**

**SECONDED: Douglas D. Lee, M.D.**

**VOTE: 11-yay, 0-nay, 0-abstain/recuse, 1-absent**

**MOTION PASSED.**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
25.	MD-04-0136A	S.S.	STEVEN I. ROSENFELD, M.D.	17493	Dismissed.

Sharon B. Megdal, Ph.D., and Edward J. Schwager, M.D. recused themselves from this matter.

## NON-TIME SPECIFIC ITEMS (Continued)

S.S., a board certified maternal fetal medicine specialist, made a statement at the call to the public. He gave an overview of his background and experience and stated that Dr. Rosenfeld has falsified medical records on a patient. S.S. provided copies of two different operative reports, both authored by Dr. Rosenfeld and pointed out the discrepancies. S.S. stated that falsifying records is a serious offense and as a result of his actions, S.S. has been denied hospital privileges and medical licensure several times over the past two years. S.S. asked that the Board reconsider the ED action and investigate this matter.

Christine Cassetta, Board Counsel, stated that the physician was noticed and responded to the allegation. Barbara Kane, Assistant Director clarified for the Board that Dr. Rosenfeld was licensed in 1988 and this incident occurred in 1985. Ms. Cassetta stated that since the incident occurred before the physician obtained his Arizona license, an administrative closure of this case is acceptable.

**MOTION: Tim B. Hunter, M.D., moved to uphold the Executive Director's Administrative Closure.**

**SECONDED: Ram R. Krishna, M.D.**

**VOTE: 9-yay, 0-nay, 2-abstain/recuse, 1-absent**

**MOTION PASSED.**

On Thursday, Christine Cassetta, Board Counsel, informed the Board that her previous advice had been in error and the Board did have jurisdiction of the physician even though the conduct occurred before he was licensed in Arizona. As such, this case was improperly administratively closed by the Executive Director and should have been investigated. Beatriz Garcia Stamps, M.D., M.B.A., Medical Director, stated that the allegation of this case is that Dr. Rosenfeld prepared a false report. The physician was noticed of the allegation and provided a written response to the Board, which established he did not do so. A second report was apparently prepared in response to a hospital investigation; it was not a false report.

**MOTION: Tim B. Hunter, M.D., moved to reconsider the motion to uphold the Executive Director's Administrative Closure.**

**SECONDED: Robert P. Goldfarb, M.D.**

**VOTE: 12-yay, 0-nay, 0-abstain/recuse, 0-absent**

**MOTION PASSED.**

**MOTION: Tim B. Hunter, M.D., to dismiss this matter.**

**SECONDED: Patrick N. Connell, M.D.**

**VOTE: 12-yay, 0-nay, 0-abstain/recuse, 0-absent**

**MOTION PASSED.**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
26.	MD-04-L132A	AMB	MATTHEW E. KARLOVSKY, M.D.	N/A	Application for Licensure Granted.

Matthew E. Karlovsky, M.D., made a statement at the call to the public. He reviewed his background and experience. He stated that prescribing cough medicine without the proper DEA license was a gross error in judgment. He was suspended from resident duty for four months and his Pennsylvania training license was placed on probation for one year. He pled guilty to a misdemeanor charge. He stated that he takes full responsibility for his actions and has demonstrated since then that he is an asset to the medical communities in which he practices. He has since been issued full licensure in the states of New York and Pennsylvania.

Lisa Bruning, Senior Licensing Investigator, reviewed this case with the Board. She stated that Dr. Karlovsky has applied for an Arizona medical license. Dr. Karlovsky was suspended from his training program due to obtaining and illegally using a DEA number of a colleague.

Tim B. Hunter, M.D., stated that Dr. Karlovsky has compiled a very good record since the incident and that he would be an asset to the State.

**MOTION: Tim B. Hunter, M.D., moved to grant the license.**

**SECONDED: Patrick N. Connell, M.D.**

Patrick N. Connell, M.D., spoke in support of the motion stating that this was a one-time error and the conduct has been resolved.

**VOTE: 11-yay, 0-nay, 0-abstain/recuse, 1-absent**

**MOTION PASSED.**



## NON-TIME SPECIFIC ITEMS (Continued)

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
27.	MD-04-L150A	AMB	JAMES J. DALLA RIVA, M.D.	N/A	Continue Investigation.

James J. Dalla Riva, M.D., made a statement at the call to the public. He reviewed his education and professional experience as a board certified OB/GYN. Dr. Dalla Riva stated that he would like to obtain an Arizona medical license with intentions to practice in Payson, Arizona and gave his reasons for moving to the state.

Chris Wolf, CEO of Payson Regional Medical Center, made a statement at the call to the public. He stated that one of the goals of Payson Regional Medical Center is to retain and recruit well-qualified physicians in order to support the good healthcare that is there. Mr. Wolf asked the Board to grant Dr. James Dalla Riva a license to practice in the state of Arizona.

Michelle Semenjuk, Licensing Division Chief, reviewed this case with the Board. She stated that Dr. Dalla Riva has had one malpractice case that resulted in payment and seven additional cases that are pending. Robert Barricks, M.D., Board Medical Consultant, reviewed the eight cases and reported that four of the cases fell below the standard of care. Dr. Barricks reviewed the four cases that he felt fell below the standard of care with the Board. Ms. Semenjuk clarified for the Board that the incidents occurred between 1996 and 2002. Dr. Barricks stated that an investigational interview was not conducted with Dr. Dalla Riva and that an explanation of his actions may be helpful in understanding the physician's decision making in these cases. Dr. Goldfarb stated that a license couldn't be denied based on the information that has been provided to the Board. He stated that the physician may have reasons for the decisions he made and should have the opportunity to explain and have this information provided to the Board.

**MOTION: Patrick N. Connell, M.D., moved to continue the investigation.**

**SECONDED: Robert P. Goldfarb, M.D.**

**VOTE: 11-yay, 0-nay, 0-abstain/recuse, 1-absent**

**MOTION PASSED.**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
28.	MD-04-L259A	AMB	RAYMOND A. VAALER, M.D.	N/A	Request for Reactivation of License Denied.

Raymond A. Vaaler, M.D., made a statement at the call to the public. Dr. Vaaler stated that he is a certified OB/GYN and is asking for reactivation of his license in order to work part-time and provide volunteer services.

Lisa Bruning, Senior Licensing Investigator reviewed this case with the Board. She stated that Dr. Vaaler has not practiced medicine since October 1991 and has not accumulated any CME since that time. Dr., Vaaler was given the opportunity of undergoing a Physician Assessment and Clinical Education (PACE) evaluation, however Dr. Vaaler stated that he did not feel the evaluation was appropriate. Christine Cassetta, Board Counsel, clarified for Dr. Schwager that a physician requesting reactivation of license must present evidence that he possesses the medical knowledge and is physically and mentally able to safely engage in the practice of medicine. Patrick N. Connell, M.D., stated that although Dr. Vaaler may be very competent, it has been twelve years since he has practiced and thirteen years since his last CME. Ingrid E. Haas, M.D., stated that further documentation of active involvement in CME would be necessary for the Board to consider reactivating Dr. Vaaler's license.

**MOTION: Ram R. Krishna, M.D., moved to deny request based on failure to meet requirements.**

**SECONDED: Patrick N. Connell, M.D.**

**VOTE: 11-yay, 0-nay, 0-abstain/recuse, 1-absent**

**MOTION PASSED.**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
29.	MD-04-L252A	AMB	STEPHEN F. HODGSON, M.D.	18024	Renewal Refund Request Denied.

Lisa Bruning, Senior Licensing Investigator, reviewed this case with the Board. She stated that Dr. Hodgson decided to no longer practice in the state of Arizona after paying his renewal fee. He requested a refund of his renewal fee nine days after paying the fee. Ms. Bruning clarified for Ingrid E. Haas, M.D., that Dr. Hodgson has a medical license in the state of Minnesota and is currently working for the Mayo Clinic in Rochester. Robert P. Goldfarb, M.D., stated that since the physician is not disabled and is still working in another state, he would speak against granting this request.

**MOTION: Robert P. Goldfarb, M.D., moved to deny the renewal refund request.**

**SECONDED: Patrick N. Connell, M.D.**

Edward J. Schwager, M.D., stated that licensing fees are nonrefundable, however the Board has the authority to grant a refund request under extenuating circumstances. Sharon B. Megdal, Ph.D., stated that all refund requests should not be

## NON-TIME SPECIFIC ITEMS (Continued)

brought before the Board and asked for Board staff to draft a policy that would address refund requests. Christine Cassetta, Board Counsel, stated that Board staff would draft a policy to present to the Board for approval. Dr. Schwager spoke against the motion by stating that the physician submitted his renewal prior to the deadline and requested the refund before the renewal date become effective.

**VOTE: 9-yay, 2-nay, 0-abstain/recuse, 1-absent**  
**MOTION PASSED.**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
30.	MD-01-0655	AMB	BRADLEY GILMAN, M.D.	27695	Modification of Board Order Denied.

Kathleen Muller, Monitored Aftercare Program Coordinator, reviewed this case with the Board. She stated that Dr. Gilman is requesting a modification of the consent agreement dated July 10, 2002. He is requesting deletion of paragraph two that prohibits him from administering schedule two and three controlled substances. Dr. Gilman is currently residing and working in Idaho. All reports from the Idaho Physician Recovery Network indicate that he is in compliance with the requirements. Sharon B. Megdal, Ph.D., stated that Dr. Gilman's license has been suspended due to failure to apply for license renewal. Christine Cassetta, Board Counsel, stated that Dr. Gilman has two open investigations; therefore, his license was suspended rather than allowed to expire.

**MOTION: Sharon B. Megdal, Ph.D., moved to deny request for modification of Board Order.**  
**SECONDED: Patrick N. Connell, M.D.**

Patrick N. Connell, M.D., reviewed the details of Dr. Gilman's probationary order and stated that the violations are serious. The Board has not received any evidence to indicate that Dr. Gilman is not a risk. Dr. Connell stated that Dr. Gilman is requesting the modification in order to remain board certified by the American Board of Family Medicine.

**VOTE: 11-yay, 0-nay, 0-abstain/recuse, 1-absent**  
**MOTION PASSED.**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
31.	MD-01-0377	AMB	BRYAN GUNNOE, M.D.	22817	Modification of Board Order granted.

Kathleen Muller, Monitored Aftercare Program Coordinator, reviewed this case with the Board. Dr. Gunnoe is requesting deletion of paragraph number twenty-six which requires him to have a treating therapist. Letters from Dr. Gunnoe's therapist indicate that Dr. Gunnoe has made outstanding progress. Dr. Gunnoe has been compliant with all terms of his probation and Dr. Greenberg, the Board's Monitored Aftercare Program Consultant, supports the modification.

**MOTION: Ram R. Krishna, M.D., moved to grant the modification of the Board Order.**  
**SECONDED: Patrick N. Connell, M.D.**  
**VOTE: 11-yay, 0-nay, 0-abstain/recuse, 1-absent**  
**MOTION PASSED.**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
32.	MD-00-0716	AMB	PETER R. NASH, M.D.	11954	Modification of Board Order granted.

Kathleen Muller, Monitored Aftercare Program Coordinator, reviewed this case with the Board. Dr. Nash is requesting modification of his Board Order dated January 9, 2003. Specifically, the deletion of paragraph number 2c prohibiting from dispensing controlled substances. Dr. Nash has been compliant with all terms of his Board order and Dr. Sucher, the Board's Monitored Aftercare Program Consultant, supports modification of the Board Order.

**MOTION: Patrick N. Connell, M.D., moved to adopt modification of the Board Order.**  
**SECONDED: Ingrid E. Haas, M.D.**  
**VOTE: 11-yay, 0-nay, 0-abstain/recuse, 1-absent**  
**MOTION PASSED.**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
33.	MD-04-0285A	P.M.	RONALD E. AREBALO, M.D.	20144	Accept the Draft Findings of Fact, Conclusions of Law, and Order as written for a Letter of Reprimand for failure to properly evaluate and monitor a patient during cardiac stress test, resulting in respiratory arrest and Probation for one year.

**NON-TIME SPECIFIC ITEMS (Continued)**

34.	MD-03-0684A	AMB	VENU G. MENON, M.D.	12360	Accept the Draft Findings of Fact, Conclusions of Law, and Order as written for a Letter of Reprimand for action taken by another state for false information on an out of state licensure application.
35.	MD-03-0968A	AMB	SHELDON EPSTEIN, M.D.	4811	Accept the Draft Findings of Fact, Conclusions of Law, and Order as written for a Letter of Reprimand for failure to protect the airway during administration of an anesthetic.

**MOTION:** Ram R. Krishna, M.D., moved to adopt findings of fact, conclusions of law and order for case numbers 33-35.

**SECONDED:** Patrick N. Connell, M.D.

**VOTE:** 11-yay, 0-nay, 0-abstain/recuse, 1-absent

**MOTION PASSED.**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
36.	MD-03-0150A	W.E.	RUBEN J. MARCHISANO, M.D.	10495	Refer to Formal Hearing.

Edward J. Schwager, M.D., stated that Dr. Marchisano was invited for a Formal Interview, however Board staff has been unable to locate him.

**MOTION:** Tim B. Hunter, M.D., moved to refer this matter to formal hearing.

**SECONDED:** Patrick N. Connell, M.D.

**VOTE:** 11-yay, 0-nay, 0-abstain/recuse, 1-absent

**MOTION PASSED.**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
37.	MD-04-0097A	AMB	DAVID D. DULANEY, M.D.	7924	Refer to Formal Hearing.

**MOTION:** Ram R. Krishna, M.D., moved to refer this matter to formal hearing.

**SECONDED:** Robert P. Goldfarb, M.D.

**VOTE:** 11-yay, 0-nay, 0-abstain/recuse, 1-absent

**MOTION PASSED.**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
38.	MD-01-0775	AMB	OLE G. TORJUSEN, M.D.	19487	Amend paragraph two of the Order to be rewritten to comport with the Board usual probationary orders.

Ann-Marie Anderson, Assistant Attorney General, reviewed this proposed consent agreement with the Board. She stated that this agreement is legally enforceable based on A.R.S. § 32-1451 (I) (3) and (6). Ms. Anderson pointed out that the May 14, 2004 Arizona Medical Board Off-Site Meeting Minutes state "in the formal hearing process, the Board has the power to order continuing medical education (CME) within a period of time that is enforceable without probation." She also stated that if Dr. Torjusen fails to complete the CME, he will be in violation of the agreement, immediately noticed and punished accordingly.

**MOTION:** Sharon B. Megdal, Ph.D., moved to accept the proposed consent agreement with the following change: line 16 of page 12 be revised to "is authorized to terminate this probationary provision of the order".

**SECONDED:** Robert P. Goldfarb, M.D.

**ROLL CALL VOTE:** The following Board Members voted in favor of the motion: Edward J. Schwager, M.D., Sharon B. Megdal, Ph.D., Robert P. Goldfarb, M.D., Patrick N. Connell, M.D., Ingrid E. Haas, M.D., Tim B. Hunter, M.D., Becky Jordan, Ram R. Krishna, M.D., Douglas D. Lee, M.D., Dona Pardo, Ph.D., R.N. and Chris Wertheim. The following Board Member was absent during this matter: William R. Martin, III, M.D.

**VOTE:** 11-yay, 0-nay, 0-abstain/recuse, 1-absent

**MOTION PASSED.**

## NON-TIME SPECIFIC ITEMS (Continued)

**MOTION:** Sharon B. Megdal, Ph.D., moved to reconsider the above motion.

**SECONDED:** Douglas D. Lee, M.D.

**VOTE:** 12-yay, 0-nay, 0-abstain/recuse, 0-absent

**MOTION PASSED.**

**MOTION:** Sharon B. Megdal, Ph.D., moved to amend paragraph two of the Order to be rewritten to comport with the Boards usual probationary orders.

**SECONDED:** Robert P. Goldfarb, M.D.

Dr. Megdal stated that the Board's intent is that the Order reflects a decree of censure and probation with the probationary period to end upon demonstration of completion of CME.

**VOTE:** 12-yay, 0-nay, 0-abstain/recuse, 0-absent

**MOTION PASSED.**

The meeting adjourned at 3:47 p.m.

## THURSDAY, DECEMBER 2, 2004

### CALL TO ORDER

Edward J. Schwager, M.D., Chair, called the meeting to order at 8:03 a.m.

### ROLL CALL

The following Board Members were present: Edward J. Schwager, M.D., Sharon B. Megdal, Ph.D., Robert P. Goldfarb, M.D., Patrick N. Connell, M.D., Ingrid E. Haas, M.D., Tim B. Hunter, M.D., Becky Jordan, Ram R. Krishna, M.D., Douglas D. Lee, M.D., William R. Martin, III, M.D., Dona Pardo, Ph.D., R.N. and Chris Wertheim.

### CALL TO THE PUBLIC

Statements issued during the call to the public appear beneath the case referenced.

### FORMAL INTERVIEWS

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
43.	MD-03-0166C	AMB	HITENDRA D. CHAUHAN, M.D.	24680	Dismissed.

Hitendrad D. Chauhan, M.D., appeared before the Board with his attorney, Daniel P. Jantsch, Esq.

Roderic Huber, M.D., Board Medical Consultant, reviewed this case with the Board. The allegation is that Dr. Chauhan failed to properly treat and manage a pericolic abscess. The outside medical consultant that reviewed this case reported that the proper order of workup would have been to obtain a general surgical consultation right away and this was not done. Dr. Chauhan's course of action was to administer a double antibiotic regimen and observe the patient.

Patrick N. Connell, M.D., presenting Board Member, began the questioning Dr. Chauhan. Dr. Chauhan reviewed the initial symptoms, his consultation and care of this patient. Dr. Chauhan explained that a surgical consult was not obtained right away because there was not an established diagnosis of an abscess, also the patient's white count and fever had come down with the first round of antibiotics. Dr. Chauhan stated that he performed a colonoscopy and scheduled the patient for a follow up one week later. The patient did not return for his follow up because he had been admitted to the hospital. When his office learned that the patient had been admitted, a copy of the colonoscopy was immediately faxed to the other treating physician. Dr. Connell stated that the outside medical consultant also criticized the timing of the colonoscopy. Dr. Chauhan responded that it was his judgment that the patient could handle the colonoscopy because he had responded well to a full course of antibiotics. Dr. Chauhan stated that if he had harmed the patient during the colonoscopy, the patient would have been back in the hospital within 24 hours.

Board Members began questioning Dr. Chauhan. Dr. Chauhan clarified for Robert P. Goldfarb, M.D., that after speaking with the radiologist and examining the patient, his first opinion was that this patient had a tumor. However, this was a working diagnosis and not an established diagnosis, so a surgeon was not called for consultation.

Dr. Chauhan made a statement to the Board. He stated that he, at no time, was negligent in the care of this patient. In hindsight, he believes that a surgical consult would have been appropriate and this incident was a learning experience for him. He also stated that no harm was intended or caused to this patient and he would not have done a colonoscopy if he didn't think it would have helped establish a diagnosis.

## **FORMAL INTERVIEWS (Continued) - HITENDRA D. CHAUHAN, M.D.**

Mr. Jantsch made a statement to the Board on behalf of Dr. Chauhan. He stated that there is not any evidence to support the deviations reported by the outside medical consultant who reviewed this case. He also stated that there was not a clear diagnosis of an abscess and that Dr. Chauhan was looking for a proper diagnosis prior to a surgical consult.

**MOTION: Patrick N. Connell, M.D., moved to issue an Advisory Letter for failure to obtain timely surgical consultation.**

**SECONDED: William R. Martin, III, M.D.**

Tim B. Hunter, M.D., spoke against the motion. He stated that Dr. Chauhan performed an adequate workup and that a surgical consult would not have provided a different outcome. Dr. Krishna agreed and stated that the type of care rendered was appropriate. Dr. Schwager also spoke against the motion and stated that he often has concerns with consultants being called in too early. In this case, the patient was medically stable while Dr. Chauhan was trying to establish a diagnosis and this does not fall below the standard of care.

**ROLL CALL VOTE: The following Board Members voted in favor of the motion: Patrick N. Connell, M.D. and Douglas D. Lee, M.D. The following Board Members voted against the motion: Edward J. Schwager, M.D., Tim B. Hunter, M.D., Ingrid E. Haas, M.D., Becky Jordan, Ram R. Krishna, M.D., William R. Martin, III, M.D., Dona Pardo, Ph.D., R.N. and Chris Wertheim. The following Board Members abstained from the motion: Sharon B. Megdal, Ph.D. and Robert P. Goldfarb, M.D.**

**VOTE: 2-yay, 8-nay, 2-abstain/recuse, 0-absent**

**MOTION FAILED.**

**MOTION: Ram R. Krishna, M.D., moved to dismiss this case.**

**SECONDED: Tim B. Hunter, M.D.**

**ROLL CALL VOTE: The following Board Members voted in favor of the motion: Edward J. Schwager, M.D., Patrick N. Connell, M.D., Tim B. Hunter, M.D., Ingrid E. Haas, M.D., Becky Jordan, Ram R. Krishna, M.D., Douglas D. Lee, M.D., William R. Martin, III, M.D., Dona Pardo, Ph.D., R.N. and Chris Wertheim. The following Board Members abstained from the motion: Sharon B. Megdal, Ph.D. and Robert P. Goldfarb, M.D.**

**VOTE: 10-yay, 0-nay, 2-abstain/recuse, 0-absent**

**MOTION PASSED.**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
44.	MD-03-1069A	B.J.	CAROL J. PEAIRS, M.D.	15474	Dismissed.

Ingrid E. Haas, M.D., stated that she knows Dr. Peairs, but this will not affect her ability to adjudicate this case.

B.J. made a statement at the call to the public. He stated that there was severe misconduct on the part of Dr. Peairs. He stated that he first saw Dr. Peairs after an accident at work. B.J. stated that he began to experience severe pain two days after Dr. Peairs administered a third steroid epidural injection. He was prescribed an immense amount of prescribed narcotics that did not help his pain. When he returned to Dr. Peairs, she looked at the injection site and told him that it was nothing to worry about. He was later admitted to the hospital with a severe infection. B.J. remained in the hospital for nineteen days and was not able to return to work for nine months. He has now returned to work but still experiences pain everyday. He stated that Dr. Peairs should have performed a blood test or bone scan when he re-visited her.

Carol J. Peairs, M.D., appeared before the Board with her attorney, Judith Berman, Esq.

Philip Scheerer, M.D., Board Medical Consultant, reviewed this case with the Board. The allegations are that Dr. Peairs negligently performed epidural steroid injections, failed to order appropriate tests and diagnose a back infection following epidural steroid injection.

Dr. Peairs made a statement to the Board. She stated that the patient presented to her one week after receiving an injection. The patient presented with no signs of epidural abscess, no signs of systemic toxins and there were no objective findings of a local infection. Her diagnosis was post injection tenderness a common side effect following a spinal injection procedure. She stated that the clinical presentation of this patient did not warrant blood work. When the patient was seen one week later at her office, a bone scan was ordered.

Douglas D. Lee, M.D., began questioning Dr. Peairs. Dr. Peairs reviewed her education, training and background for Dr. Lee. She stated that in her career, she has performed over 300 lumbar caudal epidural injections. She gave an overview of her typical technique of a caudal epidural procedure. She stated that she has never had a patient present with an infection after a lumbar caudal epidural and reviewed the details of this case.

## **FORMAL INTERVIEWS (Continued) - CAROL J. PEAIRS, M.D.**

Board Members began questioning Dr. Peairs. Dr. Peairs reviewed for Ram R. Krishna, M.D., the symptoms and complications of post epidural injection infections. She also reviewed her office procedures for phone communications with patients and informed the Board that her patients are provided with contact numbers where she can be reached after hours and on weekends.

Judith Berman made a statement to the Board on behalf of Dr. Peairs. She strongly encouraged the Board to dismiss this case. The technique and follow up care performed by Dr. Peairs was appropriate and within the standard of care.

Dr. Douglas D. Lee, M.D., stated that there is no evidence that the procedure was done negligently. It is clear in the records that Dr. Peairs followed this patient very closely and provided adequate care. He also stated that it is clear in the hospital records that this was a very difficult diagnosis.

**MOTION: Douglas D. Lee, M.D., moved to dismiss this case.**

**SECONDED: Ram R. Krishna, M.D.**

Ram R. Krishna, M.D., spoke in support of the motion stating that Dr. Peairs has presented a strong knowledge base of symptoms of infections and complications that may occur after an epidural injection.

**ROLL CALL VOTE: The following Board Members voted in favor of the motion: Edward J. Schwager, M.D., Sharon B. Megdal, Ph.D., Robert P. Goldfarb, M.D., Patrick N. Connell, M.D., Ingrid E. Haas, M.D., Tim B. Hunter, M.D., Becky Jordan, Ram R. Krishna, M.D., Douglas D. Lee, M.D., William R. Martin, III, M.D., Dona Pardo, Ph.D., R.N. and Chris Wertheim.**

**VOTE: 12-yay, 0-nay, 0-abstain/recuse, 0-absent**

**MOTION PASSED.**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
45.	MD-02-0643B	AMB	BURT FAIBISOFF, M.D.	13213	Dismissed.

Douglas D. Lee, M.D., stated that he knows Dr. Faibisoff, but this will not affect his ability to adjudicate this case.

Burt Faibisoff, M.D., appeared before the Board with his attorney, Steve Myers, Esq.

Roderic Huber, M.D., Board Medical Consultant, reviewed this case with the Board. The allegations are that Dr. Faibisoff inappropriately performed an abdominoplasty on a 67-year-old female and inappropriately performed a panniculectomy on a 40-year-old male.

The Outside Medical Consultant that reviewed this case did not have any criticisms of the care provided to the 67 year-old patient. However, the consultant questioned the care provided to the 40 year-old male patient, specifically performing surgery on the patient simultaneously with another procedure performed by Dr. Abedon Saiz.

Dr. Faibisoff made a statement to the Board. He reviewed the details of his care of patient S.C. Dr. Faibisoff stated that he discussed his concerns of risks and complications with the patient. He also clarified that he was not the second assistant for the procedure, as stated in the general surgeons notes.

William R. Martin, III, M.D., began questioning Dr. Faibisoff. Dr. Faibisoff clarified for Dr. Martin that he has been practicing for 30 years and has done a considerable amount of abdominoplasties in his years of practice. Dr. Faibisoff reviewed the complications associated with a panniculectomy. Dr. Martin stated that the literature provided to the Board by Mr. Myers justifies doing both procedures simultaneously if the patient's cardiopulmonary status is good, however there is no documentation in the physical and history to show that this patients cardiopulmonary status was good. Dr. Faibisoff stated that a physical examination of a patient as obese as this patient would not tell very much, therefore he must rely on the expertise of the cardiologist and pulmonologist who examined the patient and they determined that this patient was acceptable for surgery.

Board Members began questioning Dr. Faibisoff. Ram R. Krishna, M.D., questioned Dr. Faibisoff's standard documentation of a history and physical for a patient going into surgery. Dr. Faibisoff stated that he examines the patient and documents his findings. A physician assistant also evaluates every patient. Dr. Faibisoff stated that his documentation has improved dramatically since his care of this patient. Dr. Faibisoff clarified for Ingrid E. Haas, M.D., that the risks of complication would be the same had he waited to perform the surgery.

Mr. Myers made a statement to the Board on behalf of Dr. Faibisoff. He stated that he has provided the Board with written opinions of two board certified general surgeons who both agree that Dr. Faibisoff was within the standard of care. Mr. Myers urged the Board to dismiss this case.

## **FORMAL INTERVIEWS (Continued) - BURT FAIBISOFF, M.D.**

**MOTION:** William R. Martin, III, M.D., moved to dismiss this case.

**SECONDED:** Tim B. Hunter, M.D.

**ROLL CALL VOTE:** The following Board Members voted for the motion: Edward J. Schwager, M.D., Robert P. Goldfarb, M.D., Tim B. Hunter, M.D., Patrick N. Connell, M.D., Douglas D. Lee, M.D., Ingrid E. Haas, M.D., Becky Jordan, William R. Martin, III, M.D. and Dona Pardo, Ph.D., R.N. The following Board Members voted against the motion: Ram R. Krishna, M.D. and Chris Wertheim. The following Board Member abstained from the motion: Sharon B. Megdal, Ph.D.

**VOTE:** 9-yay, 2-nay, 1-abstain/recuse, 0-absent

**MOTION PASSED.**

## **NON-TIME SPECIFIC ITEMS**

**Approval of Minutes**

**MOTION:** Ram R. Krishna, M.D., moved to approve the October 13-14, 2004, Meeting Minutes *including Executive Session*.

**SECONDED:** Dona Pardo, Ph.D., R.N.

**VOTE:** 12-yay, 0-nay, 0-abstain/recuse, 0-absent

**MOTION PASSED.**

## **FORMAL INTERVIEWS**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
46.	MD-03-0514A	AMB	MARK L. GRAMS, M.D.	11869	Draft Findings of Fact, Conclusions of Law, and Order for Letter of Reprimand for failure to adequately evaluate febrile illness, prescribing of medication for which the patient was allergic, and poor recordkeeping.

Patrick N. Connell, M.D., recused himself from this case. Mark L. Grams, M.D., appeared before the Board without counsel.

Rudolf Kirschner, M.D., Board Medical Consultant, reviewed this case with the Board. The allegation is that Dr. Grams failed to diagnose and treat pneumonia. The deviation from the standard of care is that the physician did not consider a chest x-ray, CBC or admission. The physician also administered Vistaril even though an allergy to Vistaril was clearly noted in the patient's records. Dr. Grams was invited for an Investigational Interview after it was discovered that there were two different emergency room notes typed twenty-one days apart. At the investigational interview, Dr. Grams acknowledged the discrepancy, but could not respond.

Dr. Grams made a statement to the Board. He stated that this was one of the first of his patients while working the night shift in the Emergency Department. He stated that the department had new nurses working that night and he was provided with a chart that had four different patient names on it. He stated that he has modified his practice by verifying each patients name when seeing them and by dictating all notes on the same day.

Edward J. Schwager, M.D., began questioning Dr. Grams. Dr. Grams reviewed his education and background for the Board and reviewed the symptoms, vital signs, noted allergies of this patient. Dr. Schwager pointed out that an evaluation of head, eyes, ears, nose and throat is not dictated in the history and physical examination notes. Dr. Grams stated that he always performs an evaluation of head, eyes, ears, nose and throat and does not know why it is not recorded in the documentation. Dr. Grams stated that he now uses computerized documentation with safeguards to ensure that everything is documented. Dr. Schwager questioned Dr. Grams on what supported his diagnosis of sinusitis and bronchitis. Dr. Grams could not provide support for the diagnoses. Dr. Grams also reviewed the medications provided to the patient and reasons for prescribing them. When asked about CME, Dr. Grams stated that he has taken several board review courses and has completed 54 hours for this year, however he was unable to locate the documentation of the courses in time for the interview.

Dr. Grams clarified for Tim B. Hunter, M.D., that he is currently working 12-hour shifts in emergency medicine in Nogales, Arizona, as well as between one and four shifts a month at Tucson Veterans Hospital. Dr. Hunter asked Dr. Grams what changes he has made in his practice. Dr. Grams responded that he always makes sure that he is treating the patient that is listed on the chart, he is much more aggressive when treating patients with respiratory distress and more aware of ordering x-rays for patients with respiratory complaints. Robert P. Goldfarb, M.D., questioned Dr. Grams about the two different history and physicals. Dr. Grams stated that the first history and physical was dictated at the time the patient was seen. He could provide an explanation for why the second history and physical was dictated.

Dr. Grams stated that he learned a great deal from this patient and her illness. He stated that since the care of this patient, he is more careful about documentation and his overall care of patients.

## **FORMAL INTERVIEWS (Continued) - MARK L. GRAMS, M.D.**

**MOTION:** Edward J. Schwager, M.D., moved for a finding of Unprofessional Conduct in violation of A.R.S. § 32-1401(27) "Unprofessional conduct" includes the following, whether occurring in this state or elsewhere: (q) Any conduct or practice which is or might be harmful or dangerous to the health of the patient or the public and (e) Failing or refusing to maintain adequate records on a patient.

**SECONDED:** Ram R. Krishna, M.D.

**VOTE:** 11-yay, 0-nay, 1-abstain/recuse, 0-absent

**MOTION PASSED.**

**MOTION:** Edward J. Schwager, M.D., moved for Board Staff to draft Findings of Fact, Conclusions of Law, and Order for Letter of Reprimand for failure to adequately evaluate febrile illness, prescribing of medication for which the patient was allergic, and poor recordkeeping.

**SECONDED:** Ram R. Krishna, M.D.

**ROLL CALL VOTE:** The following Board Members voted in favor of the motion: Edward J. Schwager, M.D., Sharon B. Megdal, Ph.D., Robert P. Goldfarb, M.D., Ingrid E. Haas, M.D., Tim B. Hunter, M.D., Becky Jordan, Ram R. Krishna, M.D., Douglas D. Lee, M.D., William R. Martin, III, M.D., Dona Pardo, Ph.D., R.N. and Chris Wertheim. The following Board Member recused from the motion: Patrick N. Connell, M.D.,

**VOTE:** 11-yay, 0-nay, 1-abstain/recuse, 0-absent

**MOTION PASSED.**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
47.	MD-03-0935A	AMB	SHAWN A. TASSONE, M.D.	29157	Advisory Letter for prescribing prescription skin care products over the internet without establishing a patient relationship. A.R.S. § 32-1401(3)(b) - The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action.

Shawn A. Tassone, M.D., appeared before the Board with his attorney, Dan Cavett, Esq.

Philip Scheerer, M.D., Board Medical Consultant, reviewed this case with the Board. The allegations are that Dr. Tassone prescribed without performing a physical examination or establishing a patient relationship, failed to provide follow-up care, dispensed without a permit and failed to maintain adequate medical records on patients.

Dr. Tassone made a statement to the Board. He stated that he began selling prescription-only drugs as a way to supplement his income because his business was slow. He stated that he made a mistake and is not denying that. He has since made significant changes in his office and with his staff to correct the problems.

Ram R. Krishna, M.D., presenting Board Member, began questioning Dr. Tassone. Dr. Tassone stated that his first intention was not to sell prescriptions on the Internet, but to sell within his office only. He stated that he set up his website after seeing many other websites selling the products. A questionnaire was on the website for patients to complete. He wrongly assumed that the questionnaire and phone consultations were acceptable under the doctor-patient relationship statute. Dr. Tassone reviewed with Dr. Krishna the side effects of the Retin-A and Hydroquinone. Dr. Tassone clarified that he only prescribed Rentin-A and Hydroquinone, always provided an insert with the prescription, and only sold to patients that indicated that they had used the products before.

Mr. Cavett made a statement to the Board. He stated that Dr. Tassone developed his website after reviewing other similar websites and made an error in judgment in believing that it was okay to sell those products online. Mr. Cavett pointed out to the Board that Dr. Tassone stopped selling online before the Board noticed him. He does still sell to his patients in his office and adequately records these sales in the patient's charts. Dr. Tassone clarified for Sharon B. Megdal, Ph.D., that he stopped selling online simply because he decided that he did not have the time and did not want to continue selling. He did not stop because he became aware of the statute. Dr. Tassone stated that he did not become aware of the statute until after he received notice of this investigation from the Board.

Dr. Krishna stated that Dr. Tassone has recognized his mistake and has corrected the problem. Although there was potential for it, no patient harm occurred.

**MOTION:** Ram R. Krishna, M.D., moved to dismiss this case.

**SECONDED:** Robert P. Goldfarb, M.D.

Dr. Megdal spoke against the motion stating that although this does not rise to the level of discipline, it was in violation of statute. Patrick N. Connell, M.D., spoke against the motion stating that dismissing this case would be inconsistent with previous actions. The physician has admitted that he violated the statutes and an Advisory Letter would be more appropriate.



## **FORMAL INTERVIEWS (Continued) - SHAWN A. TASSONE, M.D.**

**Drs. Krishna and Goldfarb withdrew the motion to dismiss this case.**

**MOTION:** Ram R. Krishna, M.D., moved to issue an Advisory Letter for prescribing prescription skin care products over the Internet without establishing a patient relationship.

**SECONDED:** Patrick N. Connell, M.D.

**ROLL CALL VOTE:** The following Board Members voted in favor of the motion: Edward J. Schwager, M.D., Sharon B. Megdal, Ph.D., Robert P. Goldfarb, M.D., Patrick N. Connell, M.D., Ingrid E. Haas, M.D., Tim B. Hunter, M.D., Becky Jordan, Ram R. Krishna, M.D., Douglas D. Lee, M.D., William R. Martin, III, M.D. and Chris Wertheim. The following Board Member abstained from the motion: Dona Pardo, Ph.D., R.N.

**VOTE:** 11-yay, 0-nay, 1-abstain/recuse, 0-absent

**MOTION PASSED.**

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
48.	MD-03-1283A	AMB	DONALD Y. MAR, M.D.	12449	Advisory Letter for failure to diagnose a fracture. A.R.S. § 32-1401(3)(b) - The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action.

Edward J. Schwager, M.D. and Tim B. Hunter, M.D., recused themselves from this matter. Robert P. Goldfarb, M.D., stated that he knows Dr. Mar, but it will not affect his ability to adjudicate this case.

Donald Y. Mar, M.D., appeared before the Board with his attorney, Dan Cavett, Esq.

Rudolf Kirschner, M.D., Board Medical Consultant, reviewed this case with the Board. The allegations are that Dr. Mar failed to diagnose a finger fracture. An x-ray of the finger was taken in the emergency room, but Dr. Mar failed to note a basal fracture of the proximal phalanx of the fifth finger. The fracture was later diagnosed by another physician and was determined to be no longer reconstructible.

Ram R. Krishna, M.D., presenting Board Member, began questioning of Dr. Mar. Dr. Mar reviewed the procedure at the hospital for reading x-rays. Dr. Mar stated that the Emergency Room physician would preliminarily read x-rays during the night when a radiologist is not on duty. The radiologist will then review the x-rays the next day and fax a preliminary report to the emergency room. There is not a system in place to notify the radiologist of the patient's history or specific trauma. Dr. Mar clarified that neither the emergency room physician nor the patient's primary care physician contacted him to re-review the x-rays at any time.

Mr. Dan Cavett stated that Dr. Mar has reviewed the x-rays since this investigation was opened and has admitted to missing the fracture on the x-ray. There is no indication that Dr. Mar was impaired at the time or incompetent in any way. A mistake was made and Dr. Mar has taken responsibility.

Ram R. Krishna, M.D., stated that the fracture was missed but it is difficult for a radiologist who is reviewing hundreds of films a day to make a proper diagnosis without having a history of the patient or an explanation of what he is looking for. Dr. Krishna stated that he believes a systems error is to blame as well.

**MOTION:** Ram R. Krishna, M.D., moved to issue an Advisory Letter for failure to diagnose a fracture.

**SECONDED:** Ingrid E. Haas, M.D.

**ROLL CALL VOTE:** The following Board Members voted in favor of the motion: Robert P. Goldfarb, M.D., Patrick N. Connell, M.D., Ingrid E. Haas, M.D., Becky Jordan, Ram R. Krishna, M.D., Douglas D. Lee, M.D., William R. Martin, III, M.D., and Chris Wertheim. The following Board Members voted against the motion: Sharon B. Megdal, Ph.D. and Dona Pardo, Ph.D., R.N. The following Board Members were recused from the motion: Edward J. Schwager, M.D. and Tim B. Hunter, M.D.

**VOTE:** 8-yay, 2-nay, 2-abstain/recuse, 0-absent

**MOTION PASSED.**

The meeting recessed at 1:52 p.m. and reconvened at 2:09 p.m.

## **NON-TIME SPECIFIC ITEMS**

### **Legal Advisory Report**

Edward J. Schwager, M.D., stated that a Quarterly Report from July 2004 through September 2004 was submitted by Christine Cassetta, Board Counsel, and reviewed. Sharon B. Megdal, Ph.D., stated that the amount of detail is adequate and more detail is not needed in future reports.

## FORMAL INTERVIEWS

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	BOARD RESOLUTION
49.	MD-04-0095A	S.S.	PAULA F. NADELL, M.D.	11784	Advisory Letter for failure to follow-up on a lost Pap smear specimen in a timely fashion. A.R.S. § 32-1401(3)(b) - The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action.

Ingrid E. Haas, M.D. and William R. Martin, III, M.D., stated that they know Dr. Nadell, but this will not affect their ability to adjudicate this case.

Paula F. Nadell, M.D., appeared before the Board with her attorney, Harding B. Cure, Esq.

Robert Barricks, M.D., Board Medical Consultant, reviewed this case with the Board. The allegations are that Dr. Nadell discarded a patient's Pap smear without sending it for pathology analysis, failed to inform the patient the Pap smear was discarded, and failed to maintain accurate medical records. Dr. Barricks stated that the patient used an insurance carrier that Dr. Nadell did not use; therefore, she could only send the specimen to an authorized laboratory for analysis. The patient delayed in sending the proper insurance information to Dr. Nadell's office. The specimen was later discarded.

Dr. Nadell made a statement to the Board. She stated that the patient failed to bring her insurance information with her to her appointment. As a courtesy, Dr. Nadell's staff allowed her to be seen that day, instead of telling her to reschedule. Dr. Nadell stated that her office now requires patients without accurate insurance information to reschedule.

Ingrid E. Haas, M.D., presenting Board Member, began questioning Dr. Nadell. Dr. Nadell reviewed her office procedure for handling a Pap smear. She stated that the medical assistants are responsible for labeling the specimen, filing the paperwork in the patient's chart and making sure that it gets to the laboratory. In this case, the specimen was not processed in the usual manner because the office had not received the patient's insurance information and did not know what laboratory to send the specimen to. Dr. Nadell clarified that the patient had cryosurgery of the cervix in 1992, but had had all normal Pap Smears since that time, on a regular basis.

Mr. Cure made a statement to the Board on behalf of Dr. Nadell. He stated that this was a mistake that happened due to a unique situation when more information was needed in order to properly send the specimen for analysis. Measures have been taken in order to prevent something like this from happening again.

Ingrid E. Haas, M.D., stated that according to today's ACOG guidelines, the patient could have gone up to three years without a Pap smear and no patient harm was done.

**MOTION: Ingrid E. Haas, M.D., moved to dismiss this case.**

**SECONDED: Becky Jordan**

Edward J. Schwager, M.D., stated that he does not believe that this case rises to disciplinary action, however the physician does have a responsibility to follow up and manage her staff. In 1992, this patient was diagnosed with cervical dysplasia and was likely counseled to have annual Pap Smears for the rest of her life. He stated that there is potential harm when things get lost and believes that an Advisory Letter is more appropriate.

Ram R. Krishna, M.D., spoke in support of the motion stating that if the patient should be responsible for following up if she had not heard anything from the office. Dr. Megdal stated that it took the patient four days to fax her insurance information, which is not overly excessive. She stated that it is not fair to put blame on the patient in this instance, when the office staff lost something.

**ROLL CALL VOTE: The following Board Members voted in favor of the motion: Ingrid E. Haas, M.D., Tim B. Hunter, M.D., Becky Jordan, Ram R. Krishna, M.D., Douglas D. Lee, M.D. and Chris Wertheim. The following Board Members voted against the motion: Edward J. Schwager, M.D., Sharon B. Megdal, Ph.D., Robert P. Goldfarb, M.D., Patrick N. Connell, M.D., William R. Martin III, M.D. and Dona Pardo, Ph.D., R.N.**

**VOTE: 6-nay, 6-nay, 0-abstain/recuse, 0-absent**

**MOTION FAILED.**

**MOTION: Patrick N. Connell, M.D., moved to issue Advisory Letter for failure to follow-up on a lost Pap smear specimen in a timely fashion.**

**SECONDED: William R. Martin, III, M.D.**

**ROLL CALL VOTE: The following Board Members voted in favor of the motion: Edward J. Schwager, M.D., Sharon B. Megdal, Ph.D., Robert P. Goldfarb, M.D., Patrick N. Connell, M.D., Tim B. Hunter, M.D., William R. Martin III, M.D., Dona Pardo, Ph.D., R.N. The following Board Members voted against the motion: Ingrid E. Haas, M.D., Becky Jordan, Ram R. Krishna, M.D., Douglas D. Lee, M.D. and Chris Wertheim**

**FORMAL INTERVIEWS (Continued) - PAULA F. NADELL, M.D.**

**VOTE: 7-nay, 5-nay, 0-abstain/recuse, 0-absent**

**MOTION PASSED.**

The meeting adjourned at 3:13 p.m.

[Seal]

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Timothy C. Miller, J.D., Executive Director